IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5393 OF 2005

Anant Tukaram Koli ...Applicant
Vs.
The State of Maharashtra ...Respondent

Mr. Ganesh Gole for the Applicant.
Mr. R. Y. Mirza, A.P.P.for the Respondent.

ALONGWITH
CRIMINAL APPLICATION NO.5394 OF 2005

Ramesh Narayan More ...Applicant
Vs.
The State of Maharashtra ...Respondent

Mr. Ganesh Gole for the Applicant.
Ms Rajeshree Gadhvi, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : SEPTEMBER 30, 2005.

P.C.:

1. These Applications for Anticipatory Bail arise out of the same offence and therefore, can be disposed of conveniently by a common order.

2. The F.I.R. is filed by an Auditor on the basis of audit of a Credit Society. The offence alleged is under sections 408, 409 and 420 of the Indian Penal Code. The Applicant in Criminal Application No.5393 of 2005 is an employee of the said Credit Society. The Applicant in Criminal Application No.5394 of 2005 is also an employee of Credit Society. The allegations against the accused persons are

regarding criminal breach of trust and cheating.

3. The allegation against the Applicant in Criminal Application No.5393 of 2005 is that on 20th November, 2003 he withdrew a sum of Rs.1 lakh in cash under a voucher for the purposes of depositing the said amount in the Bank. However, he deposited only an amount of only Rs.75,000/-. The allegation against the Applicant in Criminal Application No.5394 of 2005 is that he received certain amount in cash but, he has not entered the said amount in the accounts. The allegation against the Applicant in Criminal Application No.5393 of 2005 relates to a sum of Rs.25,000/- and in Criminal Application No.5394 of 2005 the allegation is as regards an amount of Rs.21,780/-.

4. The Advocate appearing for the Applicant in both the matters submitted that the F.I.R. is filed only on the basis of the audit report. He submitted that the entire case is based on the documentary evidence and the Applicants are not in possession of any of the documents of the said Credit Society. He submitted that the Secretery and the Chairman of the Credit Society are responsible for all the transactions. He pointed out that there is absolutely

no case as against the Applicants. He pointed out that the Applicant in Criminal Application No.5393 of 2005, without prejudice to his rights and contentions, has taken out a demand draft in sum of Rs.25,000/- drawn in the name of the Credit Society and the Applicant in Criminal Application No.5394 of 2005 has also brought a demand draft in the sum of Rs.21,780/- in the name of the Credit Society. The Advocate for Applicants stated that they are also ready and willing to hand over the said demand drafts to the Credit Society without prejudice to their rights and contention. Accordingly, the Advocate for the Applicant has handed over the said demand drafts to the learned A.P.P. who in turn has handed over the demand drafts to Assistant Police Inspector Shri. Bhaskar Prabhakar Dere, the Investigating Officer who is present in this Court.

5. Thus, both the Applicants have without prejudice to their rights and contentions brought the amounts. The case is based on audit report and the main allegation seems to be against the Secretary and other office bearers of the Society regarding misappropriation of large amounts. Considering the aforesaid aspects, in my view a case is made out for granting Anticipatory Bail in favour of the

Applicants.

6. It is clarified that deposit of the aforesaid amounts by the Applicants with the Credit Society is without prejudice to the rights and contentions of the Applicants and the same shall not be construed as any admission of guilt on the part of the Applicants. It is obvious that if the allegations of the prosecution against the Applicants are ultimately not established, they will be entitled to receive back said amounts.

7. Hence, I pass the following order

: O R D E R :

CRIMINAL APPLICATION NO.5393 OF 2005

i) In the event of the arrest of the Applicant in connection with C.R.No.I/177 of 2005 registered with Uran Police Station, District Raigad, the Applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.10,000/- with one or two sureties in the like amount.

ii) The Bail is granted subject to condition that the Applicant will remain present before the Investigating Officer as and when called upon to do so

till filing of the chargesheet and will co-operate with the investigation.

iii) The Bail is granted subject to condition that the Applicant shall not, direclty or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/Investiating Agency. The Applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the Applicant only till chargesheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

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JUDGE